

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

ROBERT MICKENS,)	
)	
Petitioner,)	
)	
vs.)	Case No. 2:08-cv-0950
)	Judge Arthur J. Schwab
D. S. CHAMBERLAIN,)	Magistrate Judge Amy Reynolds Hay
SUPERINTENDENT; STEVEN)	
ZAPPALA, JR.; and THE ATTORNEY)	
GENERAL OF THE STATE OF)	
PENNSYLVANIA,)	
)	
Respondents.)	

ORDER


AND NOW, this 17th day of September, 2008, after the Petitioner,

Robert Mickens, filed an action in the above-captioned case, and after a Report and Recommendation was filed by the United States Magistrate Judge giving the petitioner until September 8, 2008 to file written objections thereto, and petitioner having filed objections to the report and recommendation on September 3, 2008 which are without merit, and upon independent review of the record, and upon consideration of the Magistrate Judge's Report and Recommendation, which is adopted as the opinion of this Court,

IT IS HEREBY ORDERED that habeas petition filed pursuant to 28 U.S.C. § 2254 is dismissed pre-service pursuant to Rule 4 because it is second or successive and, hence, the District Court lacks jurisdiction over it.

IT IS FURTHER ORDERED that, pursuant to Rule 4(a)(1) of the Federal Rules of Appellate Procedure, if the parties desire to appeal from this Order they must do so within

thirty (30) days by filing a notice of appeal as provided in Rule 3, Fed.R.App.P.

A handwritten signature in black ink, reading "Arthur J. Schwab", written over a horizontal line.

ARTHUR J. SCHWAB

United States District Judge

cc: Honorable Amy Reynolds Hay
United States Magistrate Judge

Robert Mickens
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